

Authority: Sec. 203, 63 Stat. 385, as amended; 40 U.S.C. sec. 501 of Pub. L. 100-77, 101 stat. 509-10, 42 U.S.C. 11411.

2. 45 CFR 12.3(e) is revised to read as follows:

§ 12.3 General policies.

(e) Organizations which may be eligible include those which provide care and training for the physically and mentally ill, including medical care of the aged and infirm; clinical services; services (including shelter) to homeless individuals; other public health services (including water and sewer); or similar services devoted primarily to the promotion and protection of public health. In addition, organizations which provide assistance to homeless individuals may be eligible for leases under title V of Public Law 100-77. Except for the provision of services (including shelter) to homeless individuals, organizations which have as their principal purpose the providing of custodial or domiciliary care are not eligible. The eligible organization must be authorized to carry out the activity for which it requests the property.

3. 45 CFR 12.7 is revised to read as follows:

§ 12.7 Applications for surplus real property.

Applications for surplus real property for public health purposes shall be made to the Department through the office specified in the notice of availability.

4. 45 CFR 12.10(b) is revised to read as follows:

§ 12.10 Compliance with the National Environmental Policy Act of 1969 and other related acts (environmental impact).

(b) Applicants shall be required to provide such information as the Department deems necessary to make an assessment of the impact of the proposed Federal action on the human environment. Materials contained in the applicant's official request, responses to a standard questionnaire prescribed by the Public Health Service, as well as other relevant information, will be used by the Department in making said assessment.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AB36

#### Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Plant *Harrisia portoricensis* (higo chumbo)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service determines the cactus *Harrisia portoricensis* (higo chumbo) to be a threatened species pursuant to the Endangered Species Act of 1973 (Act), as amended. Historically, *Harrisia portoricensis* was known from the off-shore islands of Mona, Monito, and Desecheo and one area on mainland Puerto Rico. Deforestation for industrial and urban development has extirpated the species from the mainland. This endemic cactus is threatened by potential development projects on Mona Island and by impacts to vegetation from feral goats and pigs. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Harrisia portoricensis*.

**EFFECTIVE DATE:** September 7, 1990.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 841-3583).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Harrisia portoricensis* (higo chumbo) was first collected by N.L. Britton in 1908 in southern Puerto Rico from an area to the west of Ponce called "Las Cucharas." However, urban, industrial, and agricultural expansion has resulted in the elimination of this population. Today it is known only from three small islands off the west coast of Puerto Rico: Mona, Monito and Desecheo.

This endemic cactus was placed in the genus *Harrisia* together with species from other Caribbean Islands and Florida by Britton in 1908 (Bull. Torr. Club 35:561). In 1910 Weingart

transferred members of this genus to *Cereus* along with other columnar cacti (*In Urban. Symbolae Antillanae* 4:430). However, the treatment of *Harrisia* as distinct continued until recently when the grouping of columnar cacti into the genus *Cereus* once again began to gain acceptance (Vivaldi and Woodbury 1981). Liogier and Martorell (1982) in their flora of Puerto Rico and adjacent islands retain the taxon as a species in the genus *Harrisia*, and it has been treated as such here.

*Harrisia portoricensis* is a slender, upright, columnar cactus. It is usually unbranched and may reach up to 6 feet (2 meters) tall and 3 inches (7 centimeters) in diameter. It has from 8 to 11 ribs separated by shallow grooves. Spines from 1 to 3 inches (2 to 7 centimeters) long occur in groups approximately 1/2 to 3/4 inch (1 to 2 centimeters) apart. Opening at night, the funnel-shaped flowers are greenish-white and may reach 6 inches (13 centimeters) in length. Fruits are a round, yellow berry without spines (Vivaldi and Woodbury 1981). Numerous black seeds are immersed in a white pulp. These fruits are a preferred food of the endangered yellow-shouldered blackbird (*Agelaius xanthomus*) on the island of Mona (Department of Natural Resources 1986).

The species is restricted to the islands of Mona, Monito, and Desecheo; all three islands are located in the Mona Passage between Puerto Rico and the Dominican Republic. These islands are composed of carbonate rocks, stratified limestone and dolomite, reef rock, and boulder rubble. Rainfall is only 32 inches (70 centimeters) in this semiarid climate. *Harrisia portoricensis* is primarily limited to, but common in, the semi-open xerophytic forest type associated with other species of columnar cacti.

The current status of *Harrisia portoricensis* is due to several factors. As noted previously, the cactus was historically found in mainland Puerto Rico, but it is not extirpated from the island due to development. On Mona Island it is threatened by the potential for development and by the actions of feral pigs and goats. Feral goats are also a problem on Desecheo. The larvae of the cactus moth has reportedly caused damage to the cactus on Mona Island in the past. Any threats to the species tend to be intensified because of the cactus' restricted distribution.

*Harrisia portoricensis* was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plant being

considered as endangered or threatened species by the Service, as published in the *Federal Register* (45 FR 82480) dated December 15, 1980; the November 28, 1985, update of the 1980 notice (48 FR 53680); and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the *Federal Register* on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service made subsequent petition findings in each October of 1983 through 1988 that listing *Harrisia portoricensis* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. A proposed rule to list *Harrisia portoricensis*, published October 18, 1989 (54 FR 42813), constituted the final 1-year finding in accordance with section 4(b)(B)(ii) of the Act.

#### Summary of Comments and Recommendations

In the October 18, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were requested to comment. A newspaper notice inviting general public comment was published in *El Dia* on November 3, 1989, and in the *San Juan Star* on October 29, 1989. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources, Terrestrial Ecology Section, supported the listing of *Harrisia portoricensis* as a threatened species. They suggested that disease and infestation by the cactus moth be mentioned as being responsible for past die-offs.

The U.S. Army Corps of Engineers, Jacksonville District, reported that they did not have any action proposed or under consideration which might affect *Harrisia portoricensis*.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Harrisia portoricensis* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Harrisia portoricensis* Britton (higo chumbo) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Harrisia portoricensis*. Dry forests similar to that on Mona and Desecheo once covered much of southern and southwestern Puerto Rico. These have been destroyed or modified for urban, industrial and agricultural development. The cactus is no longer found in the Ponce area, its type location. The islands of Mona and Monito are currently managed as wildlife reserves by the Puerto Rico Department of Natural Resources. However, in the past, various proposals have been presented for using Mona Island, which has the vast majority of the habitat, as a superport and oil storage facility and as a prison. Desecheo is currently protected as a Natural Wildlife Refuge; however, it was once managed as a breeding colony for moneys by the National Institute of Health. All three islands have been utilized in the past for bombing practice by the U.S. Navy.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species; however, problems with the take of cacti in Puerto Rico continue, even on public lands, despite their protection. Should the species be reintroduced onto mainland Puerto Rico, take could become a problem. Trade in all American species of cactus is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), appendix II.

C. *Disease or predation.* The larvae of the cactus moth (*Cactoblastis cactorum*) has caused damage to *Harrisia portoricensis* in the past, but it has not been observed recently. Feral pigs on

Mona uproot the cactus while searching for edible roots. Feral goats on both Mona and Desecheo forage on a variety of species and may be responsible for shifts in vegetation composition.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Harrisia portoricensis* is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Harrisia portoricensis* is its limited distribution, which increases its vulnerability to threats listed under factors A and C above. These threats include potential habitat loss from development and the impacts from feral goats and pigs.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Harrisia portoricensis* as threatened. The species is restricted to only three small islands to the west of mainland Puerto Rico, the primary one of which is subject to habitat destruction and modification by development projects, and two of which are impacted by feral animals. However, because plants of all sizes and ages have been observed (Vivaldi and Woodbury 1981), threatened rather than endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Mona Island has been designated critical habitat for the yellow-shouldered blackbird (*Agelaius xanthomus*), the Mona ground iguana (*Cyclura stejnegeri*), and the Mona boa (*Epicrates monensis monensis*); and Monito Island has been designated as critical habitat for the Monito gecko

(*Sphaerodactylus micropithecus*). The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

#### Available Conservation Measures

Conservation measures provided to species listed and endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being designated for *Harrisia portoricensis*, as discussed above. The only Federal involvement anticipated for the immediate future would be within the Service relative to possible goat control on the Desecheo National Wildlife Refuge, and possible involvement on Mona and Monito Islands relative to

Service-administered grant-in-aid projects.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. The 1988 amendments do not reflect this protection for threatened plants. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances.

It is anticipated that few trade permits for *Harrisia portoricensis* will ever be sought or issued, since the species is not known to be in cultivation and wild populations are relatively inaccessible. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507 (703/358-2104).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted

pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

#### References Cited

- Ayensu, E.S., and R.A. Defilippis. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. xv + 403 pp.
- Department of Natural Resources. 1986. Annual report for the yellow-shouldered blackbird project. San Juan, Puerto Rico.
- Liogier, H.A., and L.F. Martorell. 1962. Flora of Puerto Rico and adjacent islands: A systematic synopsis. University of Puerto Rico, Rio Piedras, Puerto Rico. 342 pp.
- Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Harrisia portoricensis* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 12 pp.
- Woodbury, R.C., L.F. Martorell, and J.G. Garcia-Turdufi. 1977. The flora of Mona and Monito Islands, Puerto Rico (West Indies). Bulletin 252, Agricultural Experiment Station, University of Puerto Rico, Mayaguez.

#### Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

#### Regulation Promulgation

#### PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the List of Endangered and Threatened Plants:

#### § 17.12 Endangered and threatened plants.

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(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
Harrisia (=Cereus) portoricensis	Higo chumbo	U.S.A. (PR)	T	397	NA	NA

Dated: July 19, 1990.

Suzanne Mayer,

Acting Director, Fish and Wildlife Service.

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